

Unrelated income; vending machines and laundry facilities operated on university campus. An organization was formed to assist a university and qualified for exemption under section 501(c)(3) of the Code. The organization's operation of machines that provide soft drink and food vending services and laundromat facilities on campus is not unrelated trade or business under section 513.

ISSUE

Under the circumstances described below, is a nonprofit organization's operation of vending machines on a university's campus unrelated trade or business under section 513 of the Internal Revenue Code?

FACTS

The organization, which is exempt from federal income tax under section 501(c)(3) of the Code, was formed to assist a specific university and carries out its activities in close consultation and cooperation with university officials. These activities are the receipt of contributions for the benefit of the university, assistance to the university's academic departments in problems of financial management, and management of vending machines facilities in all parts of the campus.

The vending operations include soft drink and food vending services and laundromat facilities. In some cases, the organization has contracted with a vending company for the placement of vending machines on the campus. In other cases, the organization has purchased the machines and manages them itself. This activity assists the university by providing centralized, efficient management of vending operations throughout the campus and by relieving the university of the associated administrative burden. All profits from the vending operations are distributed to the university.

LAW AND ANALYSIS

Section 513(a) of the Code provides that the term "unrelated trade or business" means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

Section 513(a)(2) of the Code provides an exception for any trade or business carried on by an organization described in section 501(c)(3) that is primarily for the convenience of its

members, students, patients, officers, or employees. This exception also applies to any college or university that is an agency or instrumentality of any government or that is owned or operated by a government.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is "related" to exempt purposes, in the relevant sense, only when the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income); and it is "substantially related," for purposes of section 513 of the Code, only if the causal relationship is a substantial one. Section 1.513-1(d)(2) further provides that for the conduct of trade or business from which a particular amount of gross income is derived to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the services from which the gross income is derived must contribute importantly to the accomplishment of those purposes.

Rev. Rul. 58-194, 1958-1 C.B. 240, holds that an organization operating a book and supply store and a cafeteria and restaurant on the campus of a state university for the convenience of the student body and faculty qualifies for exemption under section 501(c)(3) of the Code. The facilities of the organization are available to everyone connected with the university, and the profits are used solely for the benefit of the students and faculty of the university. Because the organization serves almost exclusively the members of the faculty and student body and since it is performing functions for their benefit and convenience and in furtherance of the university's educational program, it is for all intents and purposes an integral part of the university.

Like the organization described in Rev. Rul. 58-194, the subject organization's activities are an integral part of the exempt activities of the university, and the organization furthers the educational program of the university by operating facilities for the convenience of the university community. The goods and services dispensed by the vending machines are necessary for the day-to-day living on the campus of students, faculty, and staff. If the university operated the vending facilities, the income would not be subject to the tax on unrelated business income because the activity would be carried on for the convenience of its students and employees within the meaning of section 513(a)(2) of the Code. The language of section 513(a)(2) does not cover organizations, such as this one, whose activities include provision of convenience items to students to employees of another organization. Here, however, the basis for the organization's exemption is its purpose of furthering the university's educational program by aiding the university in performing its various administrative functions, including operation of vending machines for the convenience of students, faculty, and staff. Thus, the operation of vending

machines that provide soft drink and food vending services and laundromat facilities is substantially related to the organization's purpose or function constituting the basis for its exemption under section 501(c)(3).

HOLDING

The organization's operation of vending machines and laundromat facilities on the university's campus is not unrelated trade or business under section 513 of the Code.